

BILL ANALYSIS

Senate Research Center
88R3171 JAM-F

H.B. 2706
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There have been calls for increased licensing flexibility under the Texas Manufactured Housing Standards Act, particularly during the time of a prolonged disaster or pandemic. What's more, it has been noted that some provisions of the act lack clarity while others do not conform to updated federal regulation. This ambiguity has led to unnecessary and burdensome duplication of the inventory lien perfection processes.

H.B. 2706 would authorize the director of the Texas Department of Housing and Community Affairs powers during declared emergencies to ensure an adequate supply of professionals to build, sell, transport, insure, finance, and install manufactured homes. If a seller of manufactured homes sells only homes located in a manufactured home community and sells them as part of a larger real estate transaction (i.e., a sale of the land on which the home is located), they would not be required to hold a retailer's license under the provisions of this bill. It also would clarify definitions and make technical changes to the lien process for manufactured homes to align with federal law. Accordingly, the bill would improve housing supply and streamline the lien process, allowing more persons the opportunity to own a home.

H.B. 2706 amends current law relating to the regulation of manufactured homes.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 1201, Occupations Code, by adding Section 1201.1021, as follows:

Sec. 1201.1021. POWERS OF DIRECTOR DURING DECLARED EMERGENCY. (a) Provides that a declared emergency, for purposes of this section, exists when an emergency declaration is issued by the governor or a federal agency.

(b) Authorizes the executive director of the manufactured housing division of the Texas Department of Housing and Community Affairs (director; TDHCA), during a declared emergency that exceeds a period of 14 days, to:

(1) waive licensing requirements to ensure the continued and adequate supply of professionals to build, sell, transport, insure, finance, and install manufactured homes; and

(2) require a person to register with TDHCA before engaging in any activity regulated under Chapter 1201 (Manufactured Housing).

(c) Authorizes the director, following the cessation of a declared emergency, to require a person registered with TDHCA under Subsection (b)(2) to comply with the criminal history background check requirements and other licensing requirements of this chapter.

SECTION 2. Amends Section 1201.1025, Occupations Code, by adding Subsection (a-1) and amending Subsection (c), as follows:

(a-1) Provides that a person is exempt from holding a retailer's license as required by Section 1201.101(b) (relating to prohibiting a person from selling or exchanging, or offering to sell or exchange, two or more manufactured homes to consumers in this state in a 12-month period unless the person holds a retailer's license) if all manufactured homes sold or offered for sale by the person are:

(1) located in a manufactured home community, as defined by Section 94.001 (Definitions), Property Code; and

(2) sold or offered for sale to the same purchaser in connection with a sale of the real property of the community.

(c) Provides that a person who is eligible for an exemption under Section 1201.1025 (Exemption From Retailer's License Agreement) remains subject to the other applicable provisions of Subchapter C (Licensing) and to TDHCA rules regarding the sale or transfer of manufactured homes.

SECTION 3. Amends Section 1201.1031(a), Occupations Code, to create an exception under Section 1201.1021.

SECTION 4. Amends Section 1201.104(g), Occupations Code, as follows:

(g) Provides that Subsections (a) (relating to qualifying a person for a manufacturer's, retailer's, broker's, installer's, or salesperson's license), (a-2) (relating to requiring an applicant for a retailer's license to complete four hours of specialized instruction relevant to the sale and exchange of manufactured homes), (a-3) (relating to requiring an applicant for an installer's license to complete four hours of specialized instruction relevant to the installation of manufactured homes), and (a-4) (relating to requiring an applicant for a joint installer-retailer license to complete a total of eight hours of specialized instruction) do not apply during a declared emergency as described by Section 1201.1021. Makes nonsubstantive changes.

SECTION 5. Amends Section 1201.153(c), Occupations Code, to require that the notice contain certain information required by the Manufactured Housing Board within TDHCA. Makes nonsubstantive changes.

SECTION 6. Amends Section 1201.201(5), Occupations Code to redefine "inventory."

SECTION 7. Amends Sections 1201.219(a) and (c), Occupations Code, as follows:

(a) Provides that a lien on manufactured homes in inventory is perfected only by filing a financing statement in accordance with Section 9.310 (When Filing Required to Perfect Security Interest or Agricultural Lien; Security Interests and Agricultural Liens to Which Filing Provisions Do Not Apply), Business and Commerce Code, and the other provisions of that code related to security interests for inventory, rather than filing the lien with TDHCA on the required form.

(c) Provides that the filing of a financing statement to perfect a lien, rather than the filing of a lien security agreement, on the inventory of a retailer as described by Subsection (a), notwithstanding any other provision of Section 1201.219 (Perfection, Effect, and Release of Liens) or any other law, does not prevent a buyer in the ordinary course of business, as defined by Section 1.201 (General Definitions), Business and Commerce Code, from acquiring good and marketable title free of that lien, and TDHCA is prohibited from considering that lien for the purpose of title issuance.

SECTION 8. Amends Section 1201.357(b), Occupations Code, as follows:

(b) Authorizes the director, rather than require the director, if the manufacturer, retailer, or installer, as applicable, fails or refuses to provide warranty service in accordance with the TDHCA order under Section 1201.356 (Report and Order; Amendment; Compliance), to hold an informal meeting at which the manufacturer, retailer, or installer is required to show cause as to why the manufacturer's, retailer's, or installer's license should not be suspended or revoked and at which the consumer is authorized to express the person's views.

SECTION 9. Effective date: September 1, 2023.